



**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

**FILED**

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Joint Application of Fusion Connect, Inc. and the North  
Haven Entities for Authority for the North Haven Entities  
to Acquire Indirect Control of Fusion LLC (U6067C) and  
Fusion Cloud Services, LLC (U6446C)

A.

**JOINT APPLICATION FOR AUTHORITY TO ACQUIRE INDIRECT CONTROL OF  
FUSION LLC (U6067C) AND FUSION CLOUD SERVICES, LLC (U6446C)**

**PUBLIC VERSION**

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Dated: April 19, 2022

**BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA**

Joint Application of Fusion Connect, Inc. and the North Haven Entities for Authority for the North Haven Entities to Acquire Indirect Control of Fusion LLC (U6067C) and Fusion Cloud Services, LLC (U6446C)

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**JOINT APPLICATION FOR AUTHORITY TO ACQUIRE INDIRECT CONTROL OF  
FUSION LLC (U6067C) AND FUSION CLOUD SERVICES, LLC (U6446C)**

Fusion Connect, Inc. (“Fusion Connect”) and the North Haven Entities<sup>1</sup> (together with Fusion Connect, the “Joint Applicants”), pursuant to Section 854(a) of the California Public Utilities Code,<sup>2</sup> respectfully request that the California Public Utilities Commission (the “Commission”) grant authority for a transaction (the “Transaction”) which will result in the North Haven Entities acquiring a controlling interest in Fusion Connect and, indirectly, in its telecommunications operating subsidiaries in California -- Fusion LLC (U6067C) (“Fusion”) and Fusion Cloud Services, LLC (U6446C) (“Fusion Cloud”).<sup>3</sup> As explained below, MS Capital Partners Adviser, Inc. (“MS Capital Partners Adviser”), an indirect subsidiary of Morgan Stanley, a multinational investment bank and financial services company, is the investment manager of the North Haven Entities that will hold the majority of Fusion’s securities.

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<sup>1</sup> The “North Haven Entities” consist of: North Haven Credit Partners II L.P. (“NH II”), North Haven Senior Loan Fund L.P. (“NH Senior Loan Fund”), and North Haven Credit Partners III Holdings L.P. (“NH III”).

<sup>2</sup> Unless otherwise indicated, all statutory references herein are to the California Public Utilities Code.

<sup>3</sup> Fusion and Fusion Cloud, collectively are referred to herein as the “Fusion Licensees” and, together with Fusion Connect, as the “Fusion Companies.”

No assignment of licenses, assets, or customers to a new provider will occur as a result of the proposed Transaction. Immediately following consummation of the Transaction, the Fusion Licensees will continue to provide services to their existing customers in California and elsewhere pursuant to the same rates, terms, and conditions. Accordingly, the Transaction will be, for all practical purposes, imperceptible to the customers of the Fusion Licensees. The proposed Transaction will not adversely affect competition in the State of California because it will not result in a reduction of competitors and consumers will continue to have access to the same competitive alternatives they have today.

**I. DESCRIPTION OF THE JOINT APPLICANTS AND CHARACTER OF BUSINESS (Rules 2.1(A), 2.2 and 3.6(A))**

**A. The Fusion Companies**

Fusion Connect is a privately-held Delaware corporation, with headquarters located at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339.<sup>4</sup> Fusion Connect is authorized by the Federal Communications Commission (the “FCC”) to provide interstate and international telecommunications services.<sup>5</sup> Fusion Connect, through its operating subsidiaries, provides a wide range of communications services, including unified communications, digital voice and data communications services, including hosted Voice over Internet Protocol (“VoIP”) and Session Initiated Protocol trunking, broadband Internet access service, data networks, cloud-based

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<sup>4</sup> Attached, as **Exhibit A**, is a copy of Fusion Connect’s Certificate of Incorporation. Fusion Connect is not required to qualify to transact business in the State of California because it does not have operations in the State at this time.

<sup>5</sup> File No. ITC-214-19971001-00592; FCC Filer ID 825160.

services, and other enhanced communications services and features, as well as traditional voice solutions, to business customers throughout the United States.<sup>6</sup>

Each of Fusion Connect's wholly-owned operating subsidiaries holds domestic Section 214 authority to provide interstate telecommunications services and operates pursuant to Fusion Connect's international Section 214 authority. These subsidiaries also hold intrastate telecommunications authorizations issued by state public utility commissions, including the Commission.

Fusion is a New Jersey limited liability company with headquarters located at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339.<sup>7</sup> In California, the Commission authorized Fusion to operate as a non-dominant interexchange carrier (resale services only) pursuant to Decision 98-09-088 issued on September 28, 1998. This authority was subsequently expanded to include certification as a competitive local exchange carrier (resale services only) pursuant to Decision 11-09-055 issued on September 15, 2011. In total, Fusion holds intrastate telecommunications service authority in 47 states and Puerto Rico.

Fusion Cloud is a Georgia limited liability company, also with headquarters located at 210 Interstate North Parkway, Suite 200, Atlanta, GA 30339.<sup>8</sup> In California, Fusion Cloud is authorized to operate as a limited facilities-based and resale competitive local exchange and

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<sup>6</sup> Information regarding the management resources of the Fusion Companies is provided as **Exhibit B**.

<sup>7</sup> Attached as **Exhibit C**, is a California Secretary of State good standing certificate for Fusion. Formation documentation for Fusion, under its original name, Network Billing Systems, LLC ("NBS"), is on record with the Commission. See A.11-01-13. NBS filed its name change to Fusion LLC with the Commission on May 13, 2019 in Advice Letter No. 16.

<sup>8</sup> Attached, as **Exhibit D**, is corporate documentation for Fusion Cloud from Georgia, its jurisdiction of formation, and a good standing certificate from the California Secretary of State.

interexchange services carrier.<sup>9</sup> Fusion Cloud holds intrastate telecommunications service authority in a total of 45 states and the District of Columbia.

## **B. THE NORTH HAVEN ENTITIES**

Each of the North Haven Entities – NH II, NH Senior Loan Fund, and NH III – is a Delaware limited partnership with headquarters located at 1585 Broadway, 39<sup>th</sup> Floor, New York, NY 10036.<sup>10</sup> Each of the North Haven Entities has a principal business of investment activities and, as interest holders in Fusion Connect, will act as institutional investors. The securities held or controlled by the North Haven Entities are under the common investment management of MS Capital Partners Adviser, a Securities and Exchange Commission-registered investment adviser, in its capacity as investment manager to the North Haven Entities. The primary business of MS Capital Partners Adviser is to manage pooled investment vehicles, including the North Haven Entities. The North Haven Entities have delegated to MS Capital Partners Adviser, as their investment manager, the full authority to acquire, dispose of, and vote the securities held by the North Haven Entities, including their current and post-Transaction equity interests in Fusion Connect.<sup>11</sup>

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<sup>9</sup> Effective December 31, 2021, the Commission accepted Advice Letter Number 62 from Fusion Communications, LLC, a commonly owned affiliate of Fusion and Fusion Cloud, assigning its California operations and assets to Fusion Cloud. Fusion Communications, LLC, f/k/a Cbeyond Communications, had been authorized by the Commission to operate as a limited facilities-based and resale competitive local exchange and interexchange services carrier in Decision 00-12-009 on December 7, 2000.

<sup>10</sup> Attached, as **Exhibit E**, is corporate documentation for the North Haven Entities from their formation state of Delaware. The North Haven Entities are not required to qualify to transact business in the State of California because they do not have operations in the State at this time.

<sup>11</sup> Information regarding the management resources of the North Haven Entities is provided as **Exhibit F**.

MS Capital Partners Adviser is a Delaware corporation with its headquarters located at 1585 Broadway, New York, NY 10036. MS Capital Partners Adviser is a wholly-owned direct subsidiary of MS Holdings Incorporated (“MS Holdings”), a Delaware corporation. MS Holdings is, itself, a wholly-owned direct subsidiary of Morgan Stanley, a Delaware corporation. In addition, MS Holdings wholly-owns and controls MS Credit Partners II GP Inc. and MS Credit Partners III GP Inc., which are the general partners of MS Credit Partners II GP L.P. and MS Credit Partners III GP L.P., respectively, which are themselves the general partners of NH II and NH III, two of the North Haven Entities which, post-close, will hold direct and indirect interests of approximately 77.7% in Fusion Connect. The headquarters of MS Holdings, MS Credit Partners II GP Inc., MS Credit Partners III GP Inc., MS Credit Partners II GP L.P., and MS Credit Partners III GP L.P., are at 1585 Broadway, New York, NY 10036.

Morgan Stanley is also headquartered at 1585 Broadway, New York, NY 10036. Morgan Stanley has offices throughout the United States and in more than 42 countries and has more than 60,000 employees. Morgan Stanley, through its affiliates and subsidiaries, advises and originates, trades, manages, and distributes capital for institutions, governments, and individuals. Morgan Stanley operates in three business segments: institutional securities, wealth management, and investment management.

None of the Morgan Stanley Entities<sup>12</sup> operates in the telecommunications industry. None of the Morgan Stanley Entities will have any active role in the day-to-day activities of the Fusion Companies.

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<sup>12</sup> The “Morgan Stanley Entities” include the North Haven Entities, MS Credit Partners II GP Inc., MS Credit Partners III GP Inc., MS Credit Partners II GP L.P. and MS Credit Partners III GP L.P., the other North Haven Funds (as defined below in note 14), MS Capital Partners Adviser, MS Holdings, and Morgan Stanley. See **Exhibit G** which depicts the interrelationships of the various Morgan Stanley Entities.

## **II. DESIGNATED CONTACTS (RULE 2.1(B))**

Questions, correspondence or other communications concerning this Joint Application should be directed to:

*For the North Haven Entities:*

Debra Abramovitz  
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*For the Fusion Companies:*

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**With copies to:**

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## **III. DESCRIPTION OF THE TRANSACTION (RULES 3.6 (B) – (F))**

Currently, no entity or individual holds a majority or controlling interest in Fusion Connect. Three groups of investment funds under the respective control or management of (i) Vector Capital Management, L.P., or Mr. Alex Slusky (the “Vector Funds”), (ii) Invesco Limited or (iii) CBAM CLO Management, LLC, or CBAM Partners, LLC (the “CBAM Entities”) and certain Morgan Stanley/North Haven Entities (consisting of NH II, NH Senior Loan Fund, and Morgan Stanley Senior Funding, Inc. (“MS Senior Funding”)) hold, respectively, approximately 25.12%, 10.35%,

11.38%, and 12.81% of the shares of Fusion Connect's voting stock. The remaining interests in Fusion Connect are widely held by a number of investors in amounts below ten percent (10%).

As proposed in this Joint Application, following receipt of all required regulatory approvals and the implementation of certain steps, the North Haven Entities will directly own approximately 67.77% of Fusion Connect's voting stock and will indirectly own approximately 13.09% of Fusion Connect's voting stock, for a total control of approximately 80.86% of the voting equity of Fusion Connect.<sup>13</sup> The voting shares of Fusion Connect owned or controlled by the North Haven Entities will be under the common investment management of MS Capital Partners Adviser. Post-Transaction, MS Capital Partners Adviser will have under its investment management a total of approximately 82.65% of the voting equity of Fusion Connect, which will be held directly by the North Haven Entities and certain affiliated entities.<sup>14</sup>

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<sup>13</sup> As detailed below, post-Transaction, NH III will directly and indirectly own approximately 33.43 and 13.09%, respectively, of Fusion Connect's voting equity, and NH II will directly own approximately 31.20 % of Fusion Connect's voting equity. The NH Senior Loan Fund will directly own approximately 3.14% of Fusion Connect's voting equity. NH III is the sole member of the following seven limited liability companies (collectively, the "NHCP III LLCs") each of which will hold, after the Transaction, approximately 1.87% direct interest in the voting equity of Fusion Connect (for a total of approximately 13.09%): NHCP III Holdings 1 LLC, NHCP III Holdings 2 LLC, NHCP III Holdings 3 LLC, NHCP III Holdings 4 LLC, NHCP III Holdings 5 LLC, NHCP III Holdings 6 LLC, and NHCP III Holdings 7 LLC. The projected post-close interests in the Fusion Companies may vary slightly (in non-material amounts) based upon the extent to which certain of the transactional steps are fully executed. See, e.g., note 16.

<sup>14</sup> The complete group of affiliated entities – (together, the "North Haven Funds.") – whose shares in Fusion Connect will be under MS Capital Partners Adviser common management are as follows:

The North Haven Entities

The NHCP III LLCs

North Haven Senior Loan Fund (Alma) Designated Activity Company

North Haven Senior Loan Fund Offshore L.P.

North Haven Senior Loan Fund Unleveraged Offshore L.P.

North Haven Unleveraged Senior Loan Fund (Yen) L.P.



Specifically, the North Haven Entities propose to obtain indirect control of the Fusion Licensees through the following simultaneous events: (1) certain of the North Haven Funds will exercise options that they secured from several current stockholders of Fusion Connect to purchase those stockholders' shares of Fusion Connect common stock (the "Common Stock");<sup>15</sup> (2) additional voting rights associated with Fusion Connect's Series A preferred stock will activate; (3) Fusion Connect's non-voting Series B preferred stock will convert into newly issued shares of Common Stock; and (4) the holders of three tranches of warrants (the "Warrants") issued by Fusion Connect in January 2022 will have the right to exercise those Warrants and purchase additional, newly issued, shares of Common Stock.<sup>16</sup>

For the Commission's convenience, pre- and post-Transaction corporate organizational structure charts for the Fusion Companies are provided as **Exhibit G**.<sup>17</sup>

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The North Haven Funds, which operate as institutional investors, each have delegated the authority to acquire, dispose of, and vote the securities held by the North Haven Funds to MS Capital Partners Adviser as investment manager.

<sup>15</sup> The North Haven Funds with the option rights to buy the Common Stock held by the Vector Funds are NH II and NH III, two of the North Haven Entities. The North Haven Funds with the option rights to buy the Common Stock held by the CBAM Entities include each of the North Haven Entities and North Haven Senior Loan Fund (Alma) Designated Activities Company; North Haven Senior Loan Fund Offshore L.P.; North Haven Unleveraged Senior Loan Fund (Yen) L.P.; and North Haven Senior Loan Fund Unleveraged Offshore L.P.

<sup>16</sup> One tranche of the Warrants (the "Equityholder Warrants") may not be exercised unless and until Fusion Connect achieves specified enterprise valuations, if ever. These Equityholder Warrants are not expected to be exercised as part of the Transaction, unlike the other two tranches of Warrants. Consequently, the final post-close percentages of interests held in the Fusion Companies may differ slightly from those stated herein. Nevertheless, even if the Equityholder Warrants are excluded from the calculations, the North Haven Entities will acquire through the Transaction indirect control of the Fusion Licensees, collectively having, under common management, approximately 80.88% of Fusion Connect's issued voting equity.

<sup>17</sup> Documentation associated with the Transaction is provided as confidential **Exhibit H**, and will be submitted separately, with a Motion for Leave to File Under Seal.

#### **IV. PUBLIC INTEREST STATEMENT**

The Joint Applicants submit that approval of the proposed Transaction will promote the public interest, convenience, and necessity. Indeed, a competitive telecommunications market depends upon the commercial flexibility for providers to engage in just such changes to their corporate ownership and resources. Similarly, it is well-established telecommunications regulatory policy that the public interest is best served by assuring the sustained presence of numerous successful telecommunications competitors in the market. Accordingly, it is important to allow a company to organize its corporate structure in the manner that best supports the company's business operations provided that such actions are consistent with law and have no adverse impact on the public.

The instant Transaction is entirely consistent with federal and state telecommunications laws, including those of California. The Transaction will have no adverse effects upon the operations of the Fusion Licensees, their customers, or the markets they serve.

Following consummation of the Transaction, the Fusion Licensees will continue to provide their comprehensive suite of advanced and quality services to existing and future customers, without any interruption or diminishment of service quality. Existing customers in California will continue to receive the same services as they did previously, pursuant to the same rates, terms, and conditions. Consequently, the Transaction will not reduce the range or quality of service options available to California consumers.

Similarly, the Transaction presents no anti-competitive concerns and will have no adverse effects upon the California or interstate telecommunications market. The Fusion Licensees have a small share of the intrastate California telecommunications market and, together, the Fusion Companies have a small share of the interstate telecommunications market. The Transaction will

not increase the Fusion Licensees' share of these markets or otherwise adversely impact competition therein. Further, the Transaction will not result in the Fusion Licensees acquiring any new affiliations with other telecommunications providers in California, and, thus, no market concentration will result from the Transaction. Significantly, the Transaction will not eliminate any market participants, nor will it, in any respect, reduce the service choices available to consumers.

**V. FINANCIAL INFORMATION (RULE 3.6(E))**

The Commission's Rules require that for a transfer proceeding, balance sheets and income statements must be provided by the Joint Applicants.<sup>18</sup> Moreover, when a party proposes to acquire control of a certificated telecommunications company it must (i) demonstrate that it holds authority at least equivalent to that held by the company it seeks to acquire or (ii) demonstrate that it meets the same financial requirements as the certificated company. Because at least one of the Fusion Licensees has limited facilities-based authority, the North Haven Entities must demonstrate that they possess, at minimum, access to \$100,000 in cash or cash equivalents, plus sufficient reserves to meet any carrier deposits of the Fusion Licensees.<sup>19</sup> Financial information for the Fusion Companies and for the North Haven Entities are being provided, separately, as confidential **Exhibits I and J**, respectively, with an accompanying Motion for Leave to File Under Seal.

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<sup>18</sup> Rule 3.6(e) specifies the submission for transfer proceedings other than a consolidation or merger.

<sup>19</sup> The Fusion Licensees do not have any carrier deposits for their existing, ongoing operations, and do not expect to be required to provide any such deposits in the future.

## **VI. ADDITIONAL INFORMATION (RULE 2.1(D))**

### **A. Customer Transfer Notification**

Customer transfer notification is not applicable to the Transaction. The change in the intermediate ownership and control of the Fusion Licensees will not effectuate a transfer of the customers of the Fusion Licensee to another provider in California or any other jurisdiction.<sup>20</sup> Moreover, the services provided to such customers in California will continue to be provided under the same rates, terms, and conditions as they do today. Consequently, the Transaction does not result in a customer base transfer and customer notice is not required.

### **B. Disclosures of Related Regulatory and Financial History of the Joint Applicants, Officers, Directors, and Major Shareholders**

The Fusion Companies are committed to compliance with the regulatory requirements of the Commission, the State of California, and of all the jurisdictions in which they provide services. To the best knowledge of the Fusion Companies, the Fusion Licensees are in compliance with the Commission's requirements, including reporting and fee and surcharge remittances.

In Decision No. 13-05-035, the Commission adopted a requirement that a telephone corporation seeking approval for a transfer control must include with its application a broad certification that neither applicant nor any of its affiliates, officers, directors, partners, agents, or owners (directly or indirectly) of more than 10% of applicant, or anyone acting in a management capacity has, among other items, held a position with a company that filed for bankruptcy, been found liable for misrepresentations to consumers, or agreed to any other type of monetary forfeitures in resolution of any action by any regulatory body, agency, or attorney general. The

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<sup>20</sup> The change in control of the Fusion Licensees described in this Joint Application will not constitute a customer base transfer under Section 851 but an acquisition of indirect control governed by Section 854.

Decision provides that, if an applicant cannot make this certification, it shall provide a statement of exceptions or other explanatory documentation. The Fusion Companies will submit their certification shortly, as an amendment to this filing, as **Exhibit K**. The North Haven Entities will submit their certification shortly, as an amendment to this filing, as **Exhibit L**.

**C. CEQA Considerations**

The proposed Transaction will have no adverse effect on the environment, as it will consist solely of a transfer of control of the Fusion Licensees. No authority for new construction is requested by this Joint Application. Pursuant to 14 California Code of Regulations §15061(b)(3), there is no possibility that the Transaction could have a significant effect on the environment. Therefore, this Joint Application is exempt from review under the California Environmental Quality Act (CEQA).<sup>21</sup>

**VII. SCOPING INFORMATION (RULE 2.1(C) AND RULE 7 COMPLIANCE)**

**A. Proposed Category**

The Joint Applicants propose that the Commission classify this proceeding as rate setting. Although this Joint Application does not affect rates, the definitions of “adjudicatory” or “quasi-legislative,” as set forth in Rule 1.3(a) and (d), clearly do not apply to this Joint Application. Rule 7.1(e)(2) specifies that when a proceeding does not clearly fit any of these categories, it should be conducted under the rate setting procedures. In addition, Rule 1.3(e) defines rate setting proceedings to include “other proceedings” that do not fit clearly into any other category.

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<sup>21</sup> See, e.g., *Decision Granting Conditional Approval of the Acquisition of PacifiCorp by Mid-American Energy Holdings Co.*, D.06-02-033, where the Commission observed that a decision that “does not authorize any new construction, changes to the operations of ... or changes in the use of existing assets and facilities ... will not have a significant effect on the environment and, for this reason, qualifies for an exemption from CEQA pursuant to Section 15061 (b)(3)(1) of the CEQA guidelines. Consequently, there is no need for further environmental review.”

**B. Need for Hearing**

No evidentiary hearings are needed for the Commission to act on Joint Applicants' request as there are no relevant safety considerations and the information contained herein should enable the Commission to complete its review of the proposed Transaction.

**C. Issued Requiring Consideration**

The Joint Applicants believe that the sole issue in this proceeding is whether the Commission should approve the Transaction, specifically the transfer of indirect ownership of the Fusion Licensees to the North Haven Entities.<sup>22</sup>

**D. Proposed Schedule**

The Joint Applicants propose the following schedule:

April, 2022	Joint Application filed, notice issued in Daily Calendar
May, 2022	Final date for protests; Reply to protests due (if any)
June, 2022	Prehearing conference; scoping memo issued;
July-August 2022	Commission releases Proposed Decision on the Joint Application; Commission renders its Decision on the Joint Application <i>Provided that this Joint Application remains an uncontested matter, the Joint Applicants respectfully request that, pursuant to § 311(g)(2) of the Public Utilities Code and Commission Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment on a proposed decision be waived.</i>

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<sup>22</sup> The Fusion Companies' operations do not generate California revenues at a level that implicates the provisions of Section 854(b)-(c). The North Haven Entities similarly do not have California revenues that would trigger the provisions of Section 854(b)-(c).

**E.     Exhibits**

<b>Exhibit A</b>	Corporate Documentation for Fusion Connect, Inc.
<b>Exhibit B</b>	Management Information for the Fusion Companies
<b>Exhibit C</b>	Corporate Documentation for Fusion LLC
<b>Exhibit D</b>	Corporate Documentation for Fusion Cloud Services, LLC
<b>Exhibit E</b>	Partnership Formation Documentation for the North Haven Entities
<b>Exhibit F</b>	Management Information for the North Haven Entities
<b>Exhibit G</b>	Pre- and Post-Closing Organizational Diagrams of the Fusion Companies
<b>Exhibit H</b>	Transaction Documentation <i>[Will be submitted separately with a motion for leave to file under seal]</i>
<b>Exhibit I</b>	Fusion Connect Financial Information <i>[Will be submitted separately with a motion for leave to file under seal]</i>
<b>Exhibit J</b>	North Haven Entities' Financial Responsibility Showing <i>[Will be submitted separately with a motion for leave to file under seal]</i>
<b>Exhibit K</b>	Regulatory and Financial History Certification for the Fusion Companies <i>[This exhibit will be subsequently filed as an amendment.]</i>
<b>Exhibit L</b>	Regulatory and Financial History Certification for the North Haven Entities <i>[This exhibit will be subsequently filed as an amendment.]</i>

## VIII. CONCLUSION

Based on the foregoing, the Joint Applicants respectfully submit that the public interest, convenience, and necessity will be furthered by grant of this Joint Application. Accordingly, Joint Applicants request that the Commission authorize the North Haven Entities to acquire indirect control of the Fusion Licensees as set forth above.

Respectfully submitted this 19<sup>th</sup> day of April, 2022 at San Francisco, California.

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*Attorneys for the Fusion Companies*



## VERIFICATION

STATE OF NEW YORK

§

§

COUNTY OF NEW YORK

§

I, Debra Abramovitz, state that I am the Executive Director of MS Capital Partners Adviser Inc. and am authorized to issue this verification and make the foregoing filing on behalf of North Haven Credit Partners II L.P., North Haven Senior Loan Fund L.P., and NH Credit Partners III Holdings L.P. (the "North Haven Entities"); that I have read the foregoing document; and that the statements in the foregoing document with respect to the North Haven Entities are true, accurate and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.



Debra Abramovitz  
Executive Director  
MS Capital Partners Adviser Inc.  
1585 Broadway, 39th Floor  
New York, NY 10036

Subscribed and sworn to before me this 19<sup>th</sup> day of April, 2022.

Notary Public:



My Commission expires: 07/17/2022



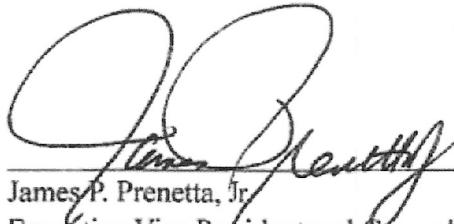
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VERIFICATION

COMMONWEALTH OF MASSACHUSETTS §  
COUNTY OF NORFOLK §

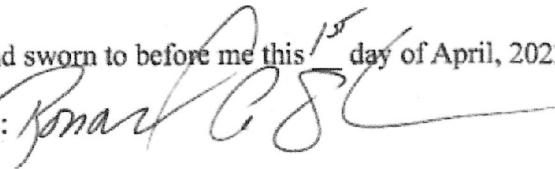
I, James P. Prenetta, Jr., state that I am the Executive Vice President and General Counsel of Fusion Connect, Inc., Fusion LLC and Fusion Cloud Services, LLC (together the "Fusion Applicants"); that I am authorized to make this Verification on behalf of the Fusion Applicants; that I have read the foregoing document; and that the statements in the foregoing document with respect to the Fusion Applicants are true, accurate and correct to the best of my knowledge, information and belief.

I declare under penalty of perjury that the foregoing is true and correct.



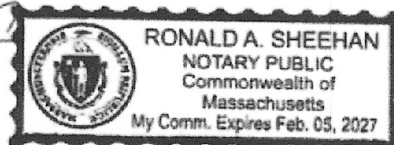
James P. Prenetta, Jr.  
Executive Vice President and General Counsel  
Fusion Connect, Inc., Fusion LLC and Fusion  
Cloud Services, LLC  
210 Interstate North Parkway, Suite 200  
Atlanta, GA 30339

Subscribed and sworn to before me this 1<sup>st</sup> day of April, 2022.

Notary Public: 

My Commission expires: Feb 5 2027  
CAL

4876-3849-4745v.1



**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT A**

**Corporate Documentation for Fusion Connect, Inc.**

# Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF  
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT  
COPY OF THE RESTATED CERTIFICATE OF "FUSION CONNECT, INC.",  
FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF JANUARY, A.D.  
2022, AT 9:03 O`CLOCK A.M.*

  
Jeffrey W. Bullock, Secretary of State

2797310 8100  
SR# 20220151474

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 202414335  
Date: 01-18-22

**THIRD AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
FUSION CONNECT, INC.**

FUSION CONNECT, INC. (formerly known as Fusion Telecommunications International, Inc.), a corporation organized and existing under the laws of the State of Delaware, hereby certifies as follows:

FIRST: The original Certificate of Incorporation of the Corporation was filed with the Secretary of State of the State of Delaware (the "Secretary of State") on September 17, 1997.

SECOND: The Amended and Restated Certificate of Incorporation was filed with the Secretary of State on May 4, 2018 (the "Amended and Restated Certificate of Incorporation").

THIRD: The Corporation changed its name to "Fusion Connect, Inc." pursuant to the Amended and Restated Certificate of Incorporation.

FOURTH: The Second Amended and Restated Certificate of Incorporation was filed pursuant to a plan of reorganization confirmed by an order of the United States Bankruptcy Court for the Southern District of New York, dated December 17, 2019, in Fusion Connect, Inc., et al. (Case No. 19-11811) under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in accordance with Section 303 of the General Corporation Law of the State of Delaware (the "DGCL") (the "Second Amended and Restated Certificate of Incorporation").

FIFTH: This Third Amended and Restated Certificate of Incorporation was duly adopted by the Board of Directors of the Corporation (the "Board") pursuant to Section 242 and Section 245 of the DGCL.

SIXTH: This Third Amended and Restated Certificate of Incorporation shall become effective upon filing with the Secretary of State.

SEVENTH: The Second Amended and Restated Certificate of Incorporation shall be amended and restated in full to read as follows:

**ARTICLE I**

The name of the Corporation is Fusion Connect, Inc. (the "Corporation").

**ARTICLE II**

The address of the Corporation's registered office in the State of Delaware is 838 Walker Road, Suite 21-2, Dover, Delaware 19904, in the County of Kent. The name of the Corporation's registered agent at such address is Registered Agent Solutions, Inc.

**ARTICLE III**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the DGCL.

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 09:03 AM 01/18/2022  
FILED 09:03 AM 01/18/2022  
SR 20220150438 - File Number 2797310

## ARTICLE IV

Section 4.1. Reverse Stock Split. Upon the effectiveness of this Third Amended and Restated Certificate of Incorporation (the "Restated Charter Effective Time"), each one-hundred (100) shares of Common Stock issued and outstanding immediately prior to the Restated Charter Effective Time shall, automatically and without any action on the part of the Corporation or the respective holders thereof, be reclassified and combined into one (1) (the "Ratio") share of Common Stock (the "Reverse Stock Split"). A holder of shares of Common Stock who would otherwise be entitled to receive a fractional share of Common Stock upon the consummation of the Reverse Stock Split because such holder held, as of immediately prior to the Restated Charter Effective Time, a number of shares of Common Stock not evenly divisible by the Ratio shall not be issued such fractional share but shall instead automatically be issued an additional fraction of a share of Common Stock that such holder would have received if, following the effectiveness of the Reverse Stock Split, the fractional share otherwise issuable to such holder had been rounded up to the next whole share of Common Stock, such that, as of immediately following the Restated Charter Effective Time, there shall be no fractional shares of Common Stock outstanding.

Section 4.2. Authorized Capital Stock. The total number of shares of capital stock that the Corporation is authorized to issue is three billion seven-hundred million (3,700,000,000) shares, consisting of (i) one billion two-hundred million (1,200,000,000) shares of Preferred Stock, par value \$0.001 ("Preferred Stock"), and (iii) two billion five-hundred million (2,500,000,000) shares of Common Stock, par value \$0.0001 per share ("Common Stock").

Section 4.3. Preferred Stock. The Board is hereby expressly authorized to provide out of the unissued shares of the Preferred Stock for one or more series of Preferred Stock and to establish from time to time the number of shares to be included in each such series and to fix the voting rights, if any, designations, powers, preferences and relative, participating, optional, special and other rights, if any, of each such series and any qualifications, limitations and restrictions thereof, as shall be stated in the resolution or resolutions adopted by the Board providing for the issuance of such series and included in a certificate of designation (a "Preferred Stock Designation") filed pursuant to the DGCL, and the Board is hereby expressly vested with the authority to the full extent provided by law, now or hereafter, to adopt any such resolution or resolutions (subject to any limitations that may be contained in any Preferred Stock Designation).

Section 4.4. Common Stock. Except as otherwise required by law or this Third Amended and Restated Certificate of Incorporation (including any Preferred Stock Designation), the holders of Common Stock will be entitled to one vote on each matter submitted to a vote at a meeting of stockholders for each share of Common Stock held of record by such holder as of the record date for such meeting; provided, however, that, except as otherwise required by law, holders of Common Stock shall not be entitled to vote on any amendment to this Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock) that relates solely to the terms of one or more outstanding series of Preferred Stock if the holders of such affected series are entitled, either separately or together as a class with the holders of one or more other such series, to vote thereon pursuant to this Certificate of Incorporation (including any Preferred Stock Designation relating to any series of Preferred Stock).



## ARTICLE V

Section 5.1. Stockholders Agreement. Except in connection with a Transfer of Company Securities in a Public Offering or in compliance with any exercise of Drag-Along Rights (each as such term is defined in the Amended and Restated Stockholders Agreement dated as of January 18, 2022, among the Corporation and the equityholders of the Corporation party thereto (as amended, restated or amended and restated from time to time in accordance with the terms thereof, the “Stockholders Agreement”)), or when no longer required pursuant to the terms of the Stockholders Agreement, the Corporation shall not issue any shares of Preferred Stock or Common Stock (including on exercise of any purchase, exchange or conversion right in any option, warrant or security) to, and no stockholder shall transfer any shares of Preferred Stock or Common Stock to, any person who does not as a precondition to such issuance or transfer execute and deliver the Stockholders Agreement or a joinder thereto, in compliance with its terms unless such person is already party thereto, and any such proposed issuance or transfer in violation hereof or thereof will be null and void *ab initio*. This Article V will automatically terminate and have no further force or effect at the time the Stockholders Agreement terminates in accordance with its terms (and after such time any other reference in this Third Amended and Restated Certificate of Incorporation to the Stockholders Agreement will be disregarded).

## ARTICLE VI

Section 6.1. Powers of the Board. Subject to the terms of the Stockholders Agreement, the Board may make, amend, and repeal the bylaws of the Corporation (as the same may be amended and/or restated from time to time, the “Bylaws”); provided, however, that nothing herein will limit the power of the stockholders of the Corporation to make, amend and repeal Bylaws. Any Bylaw made by the Board under the powers conferred hereby may be amended or repealed by the Board (subject to the Stockholders Agreement) or by the stockholders, in each case as provided in the Bylaws and in accordance with applicable law.

Section 6.2. Special Meetings. Subject to the terms of the Stockholders Agreement, special meetings of stockholders of the Corporation may be called only (i) by the Chairman of the Board (the “Chairman”), (ii) by the Chief Executive Officer of the Corporation (the “Chief Executive Officer”), or (iii) by the Secretary of the Corporation (the “Secretary”) acting at the request of the Chairman, the Chief Executive Officer, a majority of the total number of Directors that the Corporation would have if there were no vacancies on the Board (the “Whole Board”), or stockholders of the Corporation holding at least a majority of voting power of the outstanding Voting Stock, voting together as a single class. For the purposes of this Third Amended and Restated Certificate of Incorporation, “Voting Stock” means stock of the Corporation of any class or series entitled to vote generally in the election of Directors.

Section 6.3. Purpose of Meetings. At any annual meeting or special meeting of stockholders of the Corporation, only such business will be conducted or considered as has been brought before such meeting in the manner provided in the Stockholders Agreement and the Bylaws of the Corporation.

Section 6.4. Action by Consent. Any action required or permitted to be taken at any meeting of stockholders may, except as otherwise required by the DGCL or the Stockholders Agreement, be taken without a meeting, and without a vote, only if a consent, setting forth the action so taken, shall be signed by the holders of record of the issued and outstanding capital stock of the Corporation having not less than the minimum number of votes that would be necessary to authorize or take such action (such minimum number of votes to be in accordance with any applicable terms of the Stockholders Agreement, this Third Amended and Restated Certificate of Incorporation and the DGCL) at a meeting at which all shares entitled to vote thereon were present and voted and shall be delivered to the Corporation in accordance with applicable law.

## ARTICLE VII

Section 7.1. Number, Election and Terms of Directors. Effective as of the date that this Third Amended and Restated Certificate of Incorporation has become effective, the number of the Directors of the Corporation is fixed at three. Thereafter, the number of the Directors of the Corporation may be changed from time to time by, or in the manner provided in the Bylaws of the Corporation (subject to the terms of the Stockholders Agreement and any Preferred Stock Designation). Subject to the terms of the Stockholders Agreement and any Preferred Stock Designation, at each annual meeting of the stockholders of the Corporation, the successors to the Directors whose term expires at that meeting will be elected by plurality vote of all votes cast at such meeting to hold office for a term expiring at the annual meeting of stockholders held in the year following the year of their election and until their successors are elected and qualified. Election of Directors of the Corporation need not be by written ballot unless requested by the presiding officer or by the holders of a majority of the Voting Stock present in person or represented by proxy at a meeting of the stockholders at which Directors are to be elected. If authorized by the Board, such requirement of a written ballot shall be satisfied by a ballot submitted by electronic transmission, provided, however, that any such electronic transmission must either set forth or be submitted with information from which it can be determined that the electronic transmission was authorized by the stockholder or proxy holder.

Section 7.2. Quorum; Action by the Board. Subject to any additional requirements set forth in the Stockholders Agreement, a quorum of the Board shall consist of at least a majority of the Whole Board. Subject to any additional requirements set forth in the Stockholders Agreement, all actions of the Board shall require the affirmative vote of at least a majority of the directors present at a duly-convened meeting of the Board at which a quorum is present. For the avoidance of doubt, each director shall be entitled to one vote on each matter presented to the Board.

Section 7.3. Newly Created Directorships and Vacancies. Subject to the terms of the Stockholders Agreement and any Preferred Stock Designation, newly created directorships resulting from any increase in the number of Directors and any vacancies on the Board resulting from death, resignation, disqualification, removal or other cause will be filled solely by the affirmative vote of a majority of the remaining Directors then in office, even though less than a quorum of the Board, or by a sole remaining Director. Any Director elected in accordance with the preceding sentence will hold office for the remainder of the full term of the Director whose



seat is being filled and until such Director's successor has been elected and qualified. No decrease in the number of Directors constituting the Board may shorten the term of any incumbent Director.

Section 7.4. Director Liability. To the fullest extent permitted by the DGCL and any other applicable law currently or hereafter in effect, no Director of the Corporation will be personally liable to the Corporation or its stockholders for or with respect to any breach of fiduciary duty or other act or omission as a Director of the Corporation. No repeal or modification of this Article VII will adversely affect the protection of any Director of the Corporation provided hereby in relation to any breach of fiduciary duty or other act or omission as a Director of the Corporation occurring prior to the effectiveness of such repeal or modification.

## ARTICLE VIII

Section 8.1. Dual Role Persons. To the fullest extent permitted by the DGCL and except as otherwise set forth in Section 8.1(c) of this Article VIII and except as expressly agreed to by a Dual Role Person (as defined below) in a separate written instrument signed by a Dual Role Person with the Corporation:

(a) To the extent provided in this Article VIII, the Corporation renounces any interest or expectancy of the Corporation or any of its Affiliates (as defined below) or stockholders in, or in being offered an opportunity to participate in, any Corporate Opportunity (as defined below) about which a Dual Role Person acquires knowledge. Subject to Section 8.1(c) of this Article VIII, no Dual Role Person or any of their respective Representatives (as defined below) shall owe any fiduciary duty to, nor shall any Dual Role Person or any of their respective Representatives be liable for breach of fiduciary duty to, the Corporation or any of its stockholders in connection with a Corporate Opportunity (as defined below). To the fullest extent permitted by the DGCL, no Dual Role Person or any of their respective Representatives shall violate a duty or obligation to the Corporation merely because such person's conduct furthers such person's own interest, except as specifically set forth in Section 8.1(c) of this Article VIII. Subject to the terms of the Stockholders Agreement, any Dual Role Person or any of their respective Representatives may lend money to, and transact other business with, the Corporation and its Representatives. To the fullest extent permitted by the DGCL, the rights and obligations of any such person who lends money to, contracts with, borrows from or transacts business with the Corporation or any of its Representatives are the same as those of a person who is not involved with the Corporation or any of its Representatives, subject to other applicable law. No transaction between any Dual Role Person or any of their respective Representatives, on the one hand, and the Corporation or any of its Representatives, on the other hand, shall be voidable solely because any Dual Role Person or any of their respective Representatives has a direct or indirect interest in the transaction. To the fullest extent permitted by the DGCL, any Dual Role Person or any of their respective Representatives may conduct any other business, including serving as an officer, director, employee, stockholder, partner or equityholder of any corporation, partnership or limited liability company, a trustee of any trust, an executor or administrator of any estate, or an administrative official of any other business or not-for-profit entity, and receive any compensation in connection therewith.

(b) None of any Dual Role Person or any of their respective Representatives shall owe any duty to refrain from (i) engaging in the same or similar activities or lines of business as the Corporation and its subsidiaries and its and their Representatives or (ii) doing business with any of the Corporation's or its subsidiaries, or its or their Representatives' clients or customers. In the event that any Dual Role Person or any of their respective Representatives acquires knowledge of a potential transaction or matter that may be a Corporate Opportunity for the Corporation or its subsidiaries or any of its or their Representatives, such Dual Role Person or Representatives, as the case may be, shall have no duty to communicate or offer such Corporate Opportunity to the Corporation or its subsidiaries or any of its or their Representatives, subject to Section 8.1(c) of this Article VIII. No Dual Role Person or any of their respective Representatives shall be liable to the Corporation, its subsidiaries, any of its or their stockholders or any of its or their Representatives for breach of any fiduciary duty by reason of the fact that any Dual Role Person or any of their respective Representatives pursues or acquires such Corporate Opportunity for itself, directs such Corporate Opportunity to another person or does not present such Corporate Opportunity to the Corporation or its subsidiaries or any of its or their Representatives, subject to Section 8.1(c) of this Article VIII.

(c) The Corporation does not renounce any interest or expectancy of the Corporation or any of its Affiliates in, or in being offered an opportunity to participate in, any Corporate Opportunity that is one (i) presented to a director of the Corporation solely in such person's capacity as a director of the Corporation, (ii) that is the Corporation's line of business and (iii) the Corporation is financially able to undertake; provided that, in all events, a Dual Role Person or its Representatives may pursue such Corporate Opportunity if the Corporation shall decide not to pursue such Corporate Opportunity.

(d) For purposes of this Article VIII:

"Affiliate" means, with respect to any person, a person that directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such person and, in respect of a stockholder of the Corporation, any investment fund, vehicle or holding company of which such stockholder or any Affiliate of such stockholders serves as the general partner, managing member or discretionary manager or advisor.

"Corporate Opportunity" means any investment or business opportunity or potential transaction or matter, including without limitation those that might be in the Corporation's lines of business, of practical advantage to the Corporation or one in which the Corporation but for this Article VIII would have an interest or a reasonable expectancy.

"Dual Role Person" means any of the following, individually or collectively, other than any person who is an employee (including an officer) of the Corporation or any of its subsidiaries: (A) any stockholder of the Corporation and (B) any person elected, appointed or otherwise serving as a director of the Corporation in accordance with the terms hereof (other than any employee of the Corporation or its Subsidiaries), and, in each case of clauses (A) and (B), any of such entity's or person's Affiliates (other than, if applicable, the Corporation and its subsidiaries).

“Representatives” means, with respect to any entity or person, the directors, officers, employees, general partners or managing member of such person.

Section 8.2. Preservation of Rights. Neither the amendment nor repeal of this Article VIII, nor the adoption of any provision of this Third Amended and Restated Certificate of Incorporation or the Bylaws, nor, to the fullest extent permitted by the DGCL, any modification of law, shall adversely affect any right or protection of any person granted pursuant hereto existing at, or arising out of or related to any event, act or omission that occurred prior to, the time of such amendment, repeal, adoption or modification (regardless of when any proceeding (or part thereof) relating to such event, act or omission arises or is first threatened, commenced or completed).

Section 8.3. Notice of Article. To the fullest extent permitted by law, any entity or person purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Article VIII.

## ARTICLE IX

Section 9.1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise subject to or involved in any claim, demand, action, suit or proceeding, whether civil, criminal, administrative or investigative (a “Proceeding”), by reason of the fact that he or she is or was a director or an officer of the Corporation or is or was serving at the request of the Corporation as a director, officer, employee or agent of another Corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (an “Indemnitee”), whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified by the Corporation to the fullest extent permitted or required by the DGCL and any other applicable law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys’ fees, judgments, fines, ERISA excise taxes or penalties and amounts paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith (“Indemnifiable Losses”); provided, however, that, except as provided in Section 9.4 of this Article IX with respect to Proceedings to enforce rights to indemnification, the Corporation shall indemnify any such Indemnitee pursuant to this Section 9.1 in connection with a Proceeding (or part thereof) initiated by such Indemnitee only if such Proceeding (or part thereof) was authorized by the Board.

Section 9.2. Right to Advancement of Expenses. The right to indemnification conferred in Section 9.1 of this Article IX shall include the right to advancement by the Corporation of any and all expenses (including, without limitation, attorneys’ fees and expenses) incurred in defending any such Proceeding in advance of its final disposition (an “Advancement of Expenses”); provided, however, that, if the DGCL so requires, an Advancement of Expenses incurred by an Indemnitee in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such Indemnitee, including without limitation

service to an employee benefit plan) shall be made pursuant to this Section 9.2 only upon delivery to the Corporation of an undertaking (an “Undertaking”), by or on behalf of such Indemnatee, to repay, without interest, all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a “Final Adjudication”) that such Indemnatee is not entitled to be indemnified for such expenses under this Section 9.2. An Indemnatee’s right to an Advancement of Expenses pursuant to this Section 9.2 is not subject to the satisfaction of any standard of conduct and is not conditioned upon any prior determination that Indemnatee is entitled to indemnification under Section 9.1 of this Article IX with respect to the related Proceeding or the absence of any prior determination to the contrary.

Section 9.3. Contract Rights. The rights to indemnification and to the Advancement of Expenses conferred in Sections 9.1 and 9.2 of this Article IX shall be contract rights and such rights shall continue as to an Indemnatee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the Indemnatee’s heirs, executors and administrators.

Section 9.4. Right of Indemnatee to Bring Suit. If a claim under Section 9.1 or Section 9.2 of this Article IX is not paid in full by the Corporation within sixty (60) calendar days after a written claim has been received by the Corporation, except in the case of a claim for an Advancement of Expenses, in which case the applicable period shall be twenty (20) calendar days, the Indemnatee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Indemnatee shall be entitled to the fullest extent permitted or required by the DGCL, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the Corporation to provide broader reimbursements of prosecution or defense expenses than such law permitted the Corporation to provide prior to such amendment), to be paid also the expense of prosecuting or defending such suit. In (i) any suit brought by the Indemnatee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnatee to enforce a right to an Advancement of Expenses) it shall be a defense that, and (ii) any suit brought by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Corporation shall be entitled to recover such expenses, without interest, upon a Final Adjudication that the Indemnatee has not met any applicable standard of indemnification set forth in the DGCL. Neither the failure of the Corporation (including its Board or a committee thereof, its stockholders or independent legal counsel) to have made a determination prior to the commencement of such suit that indemnification of the Indemnatee is proper in the circumstances because the Indemnatee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board or a committee thereof, its stockholders or independent legal counsel) that the Indemnatee has not met such applicable standard of conduct, shall create a presumption that the Indemnatee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnatee, be a defense to such suit. In any suit brought by an Indemnatee to enforce a right to indemnification or to an Advancement of Expenses hereunder, or brought by the Corporation to recover an Advancement of Expenses hereunder pursuant to the terms of an Undertaking, the burden of proving that the Indemnatee is not entitled to be indemnified, or to such Advancement of Expenses, shall be on the Corporation.



Section 9.5. Non-Exclusivity of Rights. The rights to indemnification and to the Advancement of Expenses conferred in this Article IX shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, this Third Amended and Restated Certificate of Incorporation, the Bylaws, agreement, vote of stockholders or disinterested directors or otherwise. Nothing contained in this Article IX shall limit or otherwise affect any such other right or the Corporation's power to confer any such other right.

Section 9.6. Indemnitor of First Resort. The Corporation hereby acknowledges that the directors may have certain rights to indemnification, advancement of expenses and/or insurance provided by a holder of Preferred Stock or Common Stock or its affiliates (collectively, the "Institutional Indemnitors"). The Corporation hereby agrees (i) that it is the indemnitor of first resort (i.e., its obligations to such persons are primary and any obligation of the Institutional Indemnitors to advance expenses or to provide indemnification for the same expenses or liabilities incurred by such persons are secondary), (ii) that it shall be required to advance the full amount of expenses incurred by such persons and shall be liable for the full amount of all expenses, judgments, penalties, fines and amounts paid in settlement to the extent legally permitted and as required by the terms of this Third Amended and Restated Certificate of Incorporation or the Bylaws (or any other agreement between the Corporation and such persons), without regard to any rights such persons may have against the Institutional Indemnitors, and (iii) that it irrevocably waives, relinquishes and releases the Institutional Indemnitors from any and all claims against the Institutional Indemnitors for contribution, subrogation or any other recovery of any kind in respect thereof. The Corporation further agrees that no advancement or payment by the Institutional Indemnitors on behalf of such persons with respect to any claim for which such persons have sought indemnification from the Corporation shall affect the foregoing and the Institutional Indemnitors shall be subrogated to the extent of such advancement or payment to all of the rights of recovery of such persons against the Corporation. The Corporation and each such person agree that the Institutional Indemnitors are express third party beneficiaries of the terms of this paragraph.

Section 9.7. Insurance. The Corporation shall maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Section 9.8. No Duplication or Payments. The Corporation shall not be liable under this Article IX to make any payment to an Indemnitee in respect of any Indemnifiable Losses to the extent that the Indemnitee has otherwise actually received payment (net of any expenses incurred in connection therewith and any repayment by the Indemnitee made with respect thereto) under any insurance policy or from any other source in respect of such Indemnifiable Losses.

## ARTICLE X

Section 10.1. Internal Corporate Claims. Unless the Corporation consents in writing to the selection of an alternative forum, the Court of Chancery of the State of Delaware (or, if such

court does not have jurisdiction, the Superior Court of the State of Delaware, or, if such other court does not have jurisdiction, the United States District Court for the State of Delaware) shall, to the fullest extent permitted by law, be the sole and exclusive forum for (1) any derivative action or proceeding brought on behalf of the Corporation, (2) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer, other employee or stockholder of the Corporation to the Corporation or the Corporation's stockholders, (3) any action asserting a claim arising pursuant to any provision of the DGCL, this Third Amended and Restated Certificate of Incorporation or the Bylaws or as to which the DGCL confers jurisdiction on the Court of Chancery of the State of Delaware, or (4) any action asserting a claim governed by the internal affairs doctrine. Any person or entity purchasing or otherwise acquiring or holding any interest in shares of capital stock of the Corporation shall be deemed to have notice of and consented to the provisions of this Section 10.01.

## ARTICLE XI

Section 11.1. References. When the terms of this Third Amended and Restated Certificate of Incorporation (including, for the avoidance of doubt, any Preferred Stock Designation) refer to a specific agreement (including, for the avoidance of doubt, the Stockholders Agreement) or other document (including, for the avoidance of doubt, the Bylaws) or a decision by any body or person that determines the meaning or operation of a provision hereof, the Secretary of the Corporation shall maintain a copy of such agreement, document or decision at the principal executive offices of the Corporation and a copy thereof shall be provided free of charge to any stockholder who makes a request therefor. Unless otherwise expressly provided in this Third Amended and Restated Certificate of Incorporation (including, for the avoidance of doubt, any Preferred Stock Designation), a reference to any specific agreement (including, for the avoidance of doubt, the Stockholders Agreement) or other document (including, for the avoidance of doubt, the Bylaws), shall be deemed a reference to such agreement or document as amended from time to time in accordance with the terms of such agreement or document.

## ARTICLE XII

Section 12.1. Consent Rights. Until such time as the Stockholders Agreement, or Article 2 thereof, terminates in accordance with its terms, the Corporation shall not, and shall cause its subsidiaries not to, either directly or indirectly by amendment, merger, consolidation or otherwise, take any of the actions referred to in Sections 2.10 or 2.11 of the Stockholders Agreement, without (in addition to any other vote required by law) the written consent or affirmative vote required by Sections 2.10 or 2.11, respectively, of the Stockholders Agreement for such action and any such act or transaction entered into without such consent or vote shall be null and void *ab initio*, and of no force or effect.

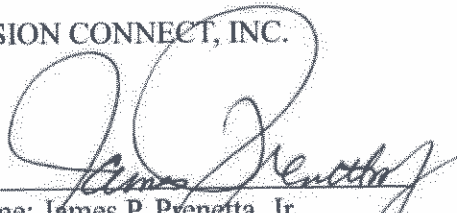
## ARTICLE XIII

Section 13.1. From time to time, subject to the terms of the Stockholders Agreement, any of the provisions of this Third Amended and Restated Certificate of Incorporation may be amended, altered, or repealed and other provisions authorized by the of the State of Delaware at the time in force may be added or inserted in the manner and at the time prescribed by said laws,

and all rights at any time conferred upon the stockholders or the Corporation by this Third Amended and Restated Certificate of Incorporation are granted subject to the provisions of this Article XIII.

IN WITNESS WHEREOF, the undersigned has executed this Third Amended and Restated Certificate of Incorporation.

FUSION CONNECT, INC.



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Name: James P. Prenetta, Jr.

Title: Executive Vice President, General Counsel  
and Corporate Secretary

Dated: January 18, 2022



**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT B**

**Management Information for the Fusion Companies**

## **Fusion Companies Board of Directors and Management Team**

### **BOARD OF DIRECTORS**

#### **Timothy J. Bernlohr**

Timothy Bernlohr is the founder and Managing Member of TJB Management Consulting, LLC, which specializes in providing project specific consulting services to businesses in transformation. Timothy is a recognized expert in executive compensation and corporate governance and has served as Chairman of over 40 compensation committees. He has served as a guest lecturer on the subjects at numerous venues, including the Financial Times Outstanding Director Exchange, NYSE Governance Services Events, and the Stern School of Business at New York University.

Timothy is the former President and Chief Executive Officer of RBX Industries, Inc., which was a leader in the design, manufacture, and marketing of rubber and plastic materials to the automotive, infrastructure, and industrial markets. Prior to joining RBX in 1997, Timothy spent 16 years in the international and industry products division of Armstrong World Industries, Inc. in a variety of management positions. Timothy presently serves as Chairman of the Board of Directors of Skyline Champion Corporation and Atlas Air Worldwide Holdings, Inc.; Director and Chairman of the Compensation Committee and member of the Nomination and Governance Committees of WestRock Company; Director and Chairman of the Compensation Committee and member of the Risk and Governance Committee of International Seaways, Inc.

Additionally, Timothy serves as an Independent Director and Chairman of the Compensation Committees of several private companies. Since the inception of TJB Management Consulting, Timothy has served on over 100 public and private boards of directors in a variety of capacities including Chairman, Lead Director and Committee Chairman.

Timothy is a 1981 graduate of The Pennsylvania State University.

#### **Brian Crotty**

Brian Crotty is Fusion Connect's Chief Executive Officer. He brings nearly thirty years of experience leading major organizations in the communications industry. Most recently Brian served as the Chief Commercial Officer for Sungard Availability Services (Sungard AS), where he was responsible for all company revenue, with a focus on the customer experience, customer retention and growth. Prior to Sungard AS Brian spent more than two decades in senior leadership positions at major communications companies, including President of Mid-Market Enterprise and Commercial Markets at Windstream and Chief Operating Officer at Broadview Networks, where Mr. Crotty led the transformation of the business to a national Unified Communications as a Service (UCaaS) cloud solutions provider.

Brian earned a Bachelor of Business Administration from St. Norbert College, DePere, Wisconsin, and has a Six Sigma Green Belt from Villanova University. Brian is an active supporter of various non-profit and civic causes, contributing greatly to the communities where he lives and works.

## **Fusion Companies Board of Directors and Management Team**

### **Dudley R. Slater**

Dudley Slater serves in a variety of governance, operating and entrepreneurial roles, working with institutional investors and operating companies in the telecommunications, healthcare, banking and media industries. Dudley's Board memberships include Segra, WOW! Cable & Internet, Umpqua Bank, LS Networks and Integra Telecom, Inc., a company Dudley co-founded in 1996.

Recent operating roles include President of Direct Health Solutions, where Dudley oversaw a significant diversified healthcare technology investment and operating strategy building operating companies in the retail transparency, SaaS, wellness and healthcare financial services sectors, and President and CEO of Western Institutional Review Board. Dudley also serves as an Industry Advisor to EQT Partners in New York. Previously, Dudley served as Chief Executive Officer of Integra Telecom.

Dudley has been recognized as the 2011 Entrepreneur of the Year in the Northwest by Ernst & Young. Dudley, a best-selling author, wrote "Fusion Leadership Unleashing The Movement of Monday Morning Enthusiasts", published by GreenLeaf Book Group (2017) and has been published in over 20 magazine, radio, web-cast, and other media outlets on topics relating to leadership, corporate culture, and employee engagement.

Dudley received a Bachelor of Science degree in Geophysics from UCLA and a Master's in Business Administration from the Harvard Business School.

### **MANAGEMENT TEAM**

#### **Brian Crotty**

##### ***Chief Executive Officer***

Brian Crotty is Fusion Connect's Chief Executive Officer. He brings nearly thirty years of experience leading major organizations in the communications industry. Most recently Brian served as the Chief Commercial Officer for Sungard Availability Services (Sungard AS), where he was responsible for all company revenue, with a focus on the customer experience, customer retention and growth. Prior to Sungard AS Brian spent more than two decades in senior leadership positions at major communications companies, including President of Mid-Market Enterprise and Commercial Markets at Windstream and Chief Operating Officer at Broadview Networks, where Mr. Crotty led the transformation of the business to a national Unified Communications as a Service (UCaaS) cloud solutions provider. Brian earned a Bachelor of Business Administration from St. Norbert College, DePere, Wisconsin, and has a Six Sigma Green Belt from Villanova University. Brian is an active supporter of various non-profit and civic causes, contributing greatly to the communities where he lives and works.

## **Fusion Companies Board of Directors and Management Team**

### **John Dobbins**

#### ***Chief Operating Officer***

John Dobbins is Fusion Connect's Chief Operating Officer. In this role, he is responsible for defining product strategy, as well as optimizing the company network infrastructure, systems, and processes for efficiency and scale. John brings more than 20 years of executive experience rebuilding and transforming corporate infrastructures and operations. At Windstream his team developed and managed the company's SD-WAN, SDN/NFV, Unified Communications, Fiber Transport and Cloud services. Prior to Windstream he held senior roles at leading companies like Earthlink, XO, and Global Crossing where he was responsible for the development, commercialization, and optimization of various transport and network services to support revenue growth and cost efficiency. John holds a B.S. in Finance/ MIS from Le Moyne College and an MBA from the University of Rochester.

### **Mario DeRiggi**

#### ***Chief Revenue Officer***

Mario DeRiggi is Fusion Connect's Chief Revenue Officer responsible for all revenue activities across all sales channels and the customer experience. He is a performance-driven leader with over 20 years of executive sales and marketing Leadership. Mario has a history and hands-on experience in increasing revenue, driving customer acquisition/ retention, building partnerships, and managing through change. Most recently, Mario led global channel sales and business development teams as a Senior Vice President at Vonage. Prior to Vonage, Mario spent five years as the Executive Vice President for Sales at Broadview Networks (now Windstream) driving UCaaS, Cloud and Managed Services adoption among enterprise customers. His earlier work history includes senior leadership roles at companies like Paetec and Cablevision.

### **Brian George**

#### ***Chief Technology Officer***

Brian George is responsible for Fusion Connect's multi-disciplinary teams in Technology, Engineering, Network and Infrastructure. Brian has been in the communications industry for over 14 years and has spent the last five with Fusion Connect. Brian leads Fusion Connect's engineering and development teams to evolve and manage the company's core network and service platforms and infrastructure. Brian builds and deploys against the road map for Fusion Connect's technology advancements, anticipating dynamically changing opportunities to enhance, expand, and optimize Fusion Connect's overall portfolio. Prior to joining Fusion Connect, Brian held leadership positions in engineering and operations for several New York metro area ISPs, AT&T Wireless, and Unilever.

### **James Prenetta**

#### ***Executive Vice President and General Counsel***

Prior to joining Fusion Connect, Jim served as General Counsel and Secretary at Hibernia Networks, a provider of global capacity solutions recently acquired by GTT Communications. At Hibernia Networks he was responsible for its legal and regulatory matters, including mergers and acquisitions, intellectual property, and litigation. Prior to joining Hibernia Networks, Jim served as Executive Vice President, General Counsel and Secretary at One Communications Corp., a communications services company created in June 2006 from the combination of CTC Communications Corp., Choice One Communications and Conversent Communications. Prior to joining CTC Communications in 2003, Jim served as Senior Vice President and General Counsel of Viatel Holding (Bermuda) Limited (and its predecessor Viatel, Inc.). Earlier in his career, Jim was a partner in the securities practice group at Kelley Drye & Warren LLP, New York, New York.

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT C**

**Corporate Documentation for Fusion LLC**



# Secretary of State Certificate of Status

I, SHIRLEY N. WEBER, PH.D., California Secretary of State, hereby certify:

**Entity Name:** FUSION, LLC  
**Entity No.:** 199818310018  
**Registration Date:** 07/02/1998  
**Entity Type:** Limited Liability Company - Out of State  
**Formed In:** NEW JERSEY  
**Status:** Active

The above referenced entity is active on the Secretary of State's records and is qualified to transact intrastate business in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the date of this certificate and does not reflect documents that are pending review or other events that may impact status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



**IN WITNESS WHEREOF**, I execute this certificate and affix the Great Seal of the State of California this day of April 12, 2022.

**SHIRLEY N. WEBER, PH.D.**  
Secretary of State

**Certificate No.:** 001680820

To verify the issuance of this Certificate, use the Certificate No. above with the Secretary of State Certification Verification Search available at [bizfileOnline.sos.ca.gov](http://bizfileOnline.sos.ca.gov).

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT D**

**Corporate Documentation for Fusion Cloud Services, LLC**



# Secretary of State Certificate of Status

I, SHIRLEY N. WEBER, PH.D., California Secretary of State, hereby certify:

**Entity Name:** FUSION CLOUD SERVICES, LLC  
**Entity No.:** 202120310481  
**Registration Date:** 07/20/2021  
**Entity Type:** Limited Liability Company - Out of State  
**Formed In:** GEORGIA  
**Status:** Active

The above referenced entity is active on the Secretary of State's records and is qualified to transact intrastate business in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the date of this certificate and does not reflect documents that are pending review or other events that may impact status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



**IN WITNESS WHEREOF**, I execute this certificate and affix the Great Seal of the State of California this day of April 12, 2022.

**SHIRLEY N. WEBER, PH.D.**  
Secretary of State

**Certificate No.:** 001677824

To verify the issuance of this Certificate, use the Certificate No. above with the Secretary of State Certification Verification Search available at [bizfileOnline.sos.ca.gov](http://bizfileOnline.sos.ca.gov).



**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT E**

**Partnership Formation Documentation for the North Haven Entities**

# Delaware

PAGE 1

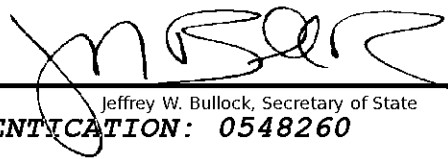
*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF LIMITED PARTNERSHIP OF "MORGAN STANLEY CREDIT PARTNERS II L.P.", FILED IN THIS OFFICE ON THE TWENTY-SEVENTH DAY OF JUNE, A.D. 2013, AT 1:32 O'CLOCK P.M.

5358421 8100

130824504



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 0548260

DATE: 06-27-13

CERTIFICATE OF LIMITED PARTNERSHIP  
OF  
**MORGAN STANLEY CREDIT PARTNERS II L.P.**

This Certificate of Limited Partnership of Morgan Stanley Credit Partners II L.P. (the "Partnership"), dated as of June 27, 2013, is being duly executed and filed by MS Credit Partners II GP L.P., a Delaware limited partnership, as general partner, to form a limited partnership under the Delaware Revised Uniform Limited Partnership Act (6 *Del. C.* §17-101, *et seq.*, as amended).

1. Name. The name of the Partnership is Morgan Stanley Credit Partners II L.P.
2. Registered Office and Agent. The address of the registered office of the Partnership in the State of Delaware is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801, and the name of the registered agent for service of process on the Partnership at such address is The Corporation Trust Company.
3. General Partner. The name and business address of the general partner of the Partnership is MS Credit Partners II GP L.P., c/o MS Capital Partners Adviser Inc., 1585 Broadway, 39<sup>th</sup> Floor, New York, New York 10036.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Limited Partnership as of the date first above written.

MS CREDIT PARTNERS II GP L.P.,

By: MS Credit Partners II GP Inc.,  
its general partner

By: Gail Freeman

Name: Gail Freeman

Title: Assistant Secretary

# Delaware

PAGE 1

*The First State*

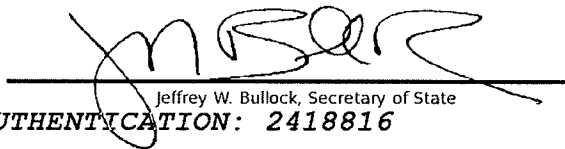
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "MORGAN STANLEY CREDIT PARTNERS II L.P.", CHANGING ITS NAME FROM "MORGAN STANLEY CREDIT PARTNERS II L.P." TO "NORTH HAVEN CREDIT PARTNERS II L.P.", FILED IN THIS OFFICE ON THE TWENTY-NINTH DAY OF MAY, A.D. 2015, AT 11:27 O'CLOCK A.M.

5358421 8100

150821523

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 2418816

DATE: 05-29-15

STATE OF DELAWARE  
AMENDMENT TO THE CERTIFICATE OF  
LIMITED PARTNERSHIP  
OF  
MORGAN STANLEY CREDIT PARTNERS II L.P.

The undersigned, desiring to amend the Certificate of Limited Partnership pursuant to the provisions of Section 17-202 of the Revised Uniform Limited Partnership Act of the State of Delaware, does hereby certify as follows:

FIRST: The name of the Limited Partnership is Morgan Stanley Credit Partners II L.P.

SECOND: Article 1 of the Certificate of Limited Partnership shall be amended as follows:

The name of the Limited Partnership is North Haven Credit Partners II L.P.

IN WITNESS WHEREOF, the undersigned executed this Amendment to the Certificate of Limited Partnership on this 29 day of May, A.D. 2015.

MS Credit Partners II GP L.P., General Partner

By: MS Credit Partners II GP Inc., its General Partner

By: Gail Freeman

General Partner(s)

Gail Freeman

Assistant Secretary

Name: \_\_\_\_\_

Print or Type

# Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF  
DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT  
COPY OF THE CERTIFICATE OF LIMITED PARTNERSHIP OF "NH CREDIT  
PARTNERS III HOLDINGS L.P.", FILED IN THIS OFFICE ON THE  
NINETEENTH DAY OF FEBRUARY, A.D. 2019, AT 3:39 O`CLOCK P.M.*

  
Jeffrey W. Bullock, Secretary of State

7287661 8100  
SR# 20191149919

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 202289240  
Date: 02-20-19

**CERTIFICATE OF LIMITED PARTNERSHIP**

**OF**

**NH CREDIT PARTNERS III HOLDINGS L.P.**

THIS Certificate of Limited Partnership of NH Credit Partners III Holdings L.P. (the "Partnership"), dated as of February 19, 2019, is being duly executed and filed by MS Credit Partners III GP L.P., a Delaware limited partnership, as the sole general partner, to form a limited partnership under the Delaware Revised Uniform Limited Partnership Act (6 Del. C. § 17-101, et seq.).

1. Name. The name of the limited partnership is NH Credit Partners III Holdings L.P.

2. Registered Office. The address of the registered office of the Partnership in the State of Delaware is c/o The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

3. Registered Agent. The name and address of the registered agent for service of process on the Partnership in the State of Delaware are The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware 19801.

4. General Partner. The name and the mailing address of the sole general partner of the Partnership are:

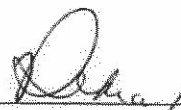
MS Credit Partners III GP L.P.  
c/o MS Credit Partners Adviser Inc.  
1585 Broadway  
New York, New York 10036

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Limited Partnership as of the date first-above written.

MS CREDIT PARTNERS III GP L.P., as general partner

By: MS Credit Partners III GP Inc., its general partner

By:

  
Name: Debra Abramovitz  
Title: Executive Director



# Delaware

The First State

Page 1

*I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF LIMITED PARTNERSHIP OF "NORTH HAVEN SENIOR LOAN FUND L.P.", FILED IN THIS OFFICE ON THE THIRD DAY OF FEBRUARY, A.D. 2017, AT 6:33 O`CLOCK P.M.*

  
Jeffrey W. Bullock, Secretary of State

6304810 8100  
SR# 20170651889

You may verify this certificate online at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

Authentication: 201988698  
Date: 02-06-17

CERTIFICATE OF LIMITED PARTNERSHIP

OF

NORTH HAVEN SENIOR LOAN FUND L.P.

This Certificate of Limited Partnership is being duly executed and filed by the sole general partner, to form a limited partnership under the Delaware Revised Uniform Limited Partnership Act (the "Act") , (6 Del.C. §17-101, et seq.). It is hereby certified as follows:

**Name:** The name of the limited partnership is North Haven Senior Loan Fund L.P.

**Registered Office:** The address of its registered office in the State of Delaware is Corporation Trust Center, 1209 Orange Street, in the City of Wilmington, Delaware 19801. The name of its registered agent at such address is The Corporation Trust Company.

**General Partner:** The name and business address of the sole general partner of the Partnership is:

MS Senior Loan Partners GP L.P.  
1585 Broadway 39<sup>th</sup> Floor  
New York, NY 10036

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate of Limited Partnership as of January 31, 2017.

By: MS Senior Loan Partners GP L.P., its general partner  
By: MS Senior Loan Partners GP Inc., its general partner

By:

  
Name: Thomas Bergen  
Title: Authorized Officer

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT F**

**Management Information for the North Haven Entities**

## Senior Leadership – Morgan Stanley Private Credit



**David N. Miller**

*Managing Director*

*Head of Global Private Credit & Equity*

*Chairman of the Board of*

*MS Direct Lending Fund <sup>(1)</sup>*

*24 Years  
of Industry Experience*

Prior to joining Morgan Stanley in 2016, Mr. Miller was the CEO of Silver Bay Realty Trust Corp., a publicly traded REIT he co-founded in 2011. Prior to Silver Bay, Mr. Miller was a Managing Director at Pine River Capital Management and Two Harbors Investment Corp. where he focused on investment strategy and new business development.

During the global financial crisis, Mr. Miller served in various roles at the U.S. Department of Treasury, including as the CIO of the Troubled Asset Relief Program, where he created complex crisis response investment programs and managed the \$700Bn portfolio, and equity.

Mr. Miller received an MBA from Harvard Business School and a B.A. in Economics from Dartmouth College.



**Ashwin Krishnan**

*Managing Director*

*Co-Head of N.A. Private Credit*

*Co-PM of Credit Partners*

*21 Years  
of Industry Experience*

Prior to joining Morgan Stanley Private Credit, Mr. Krishnan was a Vice President of Morgan Stanley Principal Investments, a private capital investing effort utilizing Morgan Stanley's proprietary capital. In addition, Mr. Krishnan worked as a credit analyst in Morgan Stanley's High-Yield and Distressed Research group. Prior to joining Morgan Stanley in 2003, Mr. Krishnan was in the Telecom Investment Banking group at UBS. Mr. Krishnan holds an M.S. in Engineering from Columbia University and a B.S. in Industrial Engineering from Bangalore University, India. Mr. Krishnan is on the Board of Directors of Strata Worldwide, TNT Crane, and Vewd Software.

Mr. Krishnan is actively involved in Morgan Stanley's diversity and inclusion efforts, including serving as Co-Chair of the Asian Employee Networking Group.



**Jeff Levin**

*Managing Director*

*Co-Head of N.A. Private Credit*

*Head of Direct Lending Fund <sup>(1)</sup>*

*Co-PM of Senior Loan Fund*

*20 Years  
of Industry Experience*

Prior to rejoining Morgan Stanley in 2019, Mr. Levin was a Partner and Managing Director of The Carlyle Group where he served as President of The Carlyle Group's BDCs and was a member of the investment committee for the Direct Lending platform.

Prior to joining Carlyle in 2012, Mr. Levin was a founding member of Morgan Stanley Credit Partners, a corporate debt fund, where he was responsible for originating, structuring and executing credit and private equity investments across various industries. Prior to that role, Mr. Levin was a member of the Leveraged & Acquisition Finance Group at Morgan Stanley where he was responsible for originating and executing high yield bond and leveraged loan transactions. He graduated from Emory University in 2002.

Notes: As of the date hereof. There can be no assurance that any of these professionals will remain with the Company / Adviser or that the past performance or success of such professionals serves as indication of their future performance or success.

1. MS BDCs refers to the other BDCs on the MSPC platform, each with a similar investment strategy and investment objective to the Company.

## Senior Leadership – Morgan Stanley Private Credit



**Hank D'Alessandro**

*Managing Director  
Vice Chairman of MSPC  
CIO of Senior Loan Fund  
CIO of Credit Partners*

*29 Years  
of Industry Experience*

Mr. D'Alessandro joined Morgan Stanley in 1997 and most recently was Vice Chairman of North American Leveraged and Acquisition Finance and Head of U.S. Financial Sponsor Leveraged Finance. Prior to joining Morgan Stanley, he was a Vice President at Chase Securities, Inc. and an Audit Manager at KPMG Peat Marwick. Mr. D'Alessandro holds a B.S., magna cum laude, from Seton Hall University and an MBA from Cornell University. He serves on the Seton Hall University Board of Regents and Board of Trustees. Mr. D'Alessandro is on the Board of Directors of Strata Worldwide.



**Peter Ma**

*Managing Director  
Member of Investment Committee*

*11 Years  
of Industry Experience*

Prior to joining Morgan Stanley Private Credit in 2021, Mr. Ma was a Partner and Managing Director at Colbeck Capital, responsible for sourcing opportunities and leading investment execution, including diligence, documentation, and portfolio management. Before Colbeck, Mr. Ma was an investment banker at MESA Securities where he advised media and entertainment companies on mergers, acquisitions, and capital raising, with a focus on structured solutions. Mr. Ma graduated from Harvard University with a Bachelor of Arts in Economics.

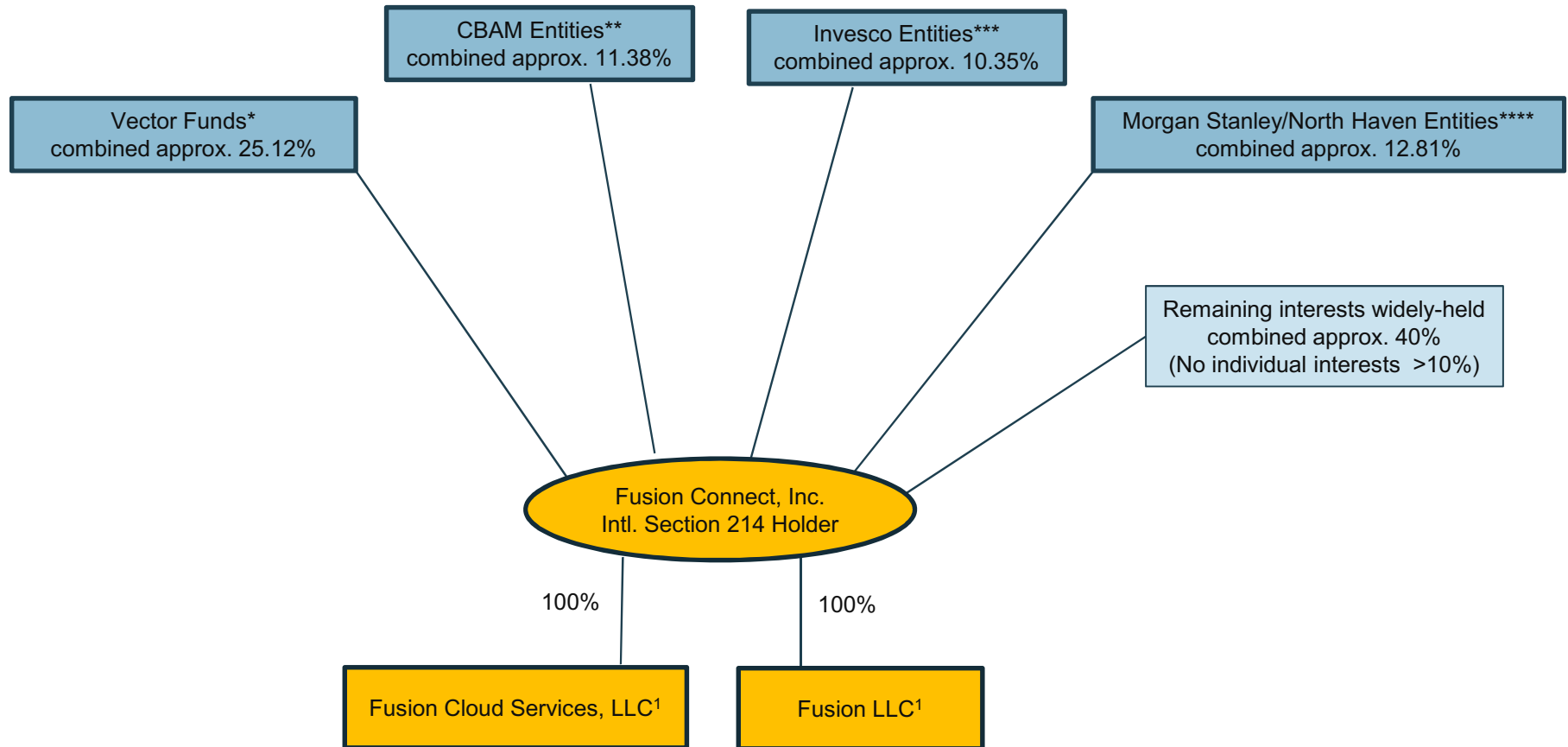
Notes: As of the date hereof. There can be no assurance that any of these professionals will remain with the Company / Adviser or that the past performance or success of such professionals serves as indication of their future performance or success.

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT G**

**Pre- and Post-Closing Organizational Diagrams  
of the Fusion Companies**

## THE FUSION COMPANIES (Pre-Close)



<sup>1</sup> The chart only includes Fusion Connect, Inc. subsidiaries that are licensed providers in California.

\* Under the control or management of Vector Capital Management, L.P. and Mr. Alex Slusky.

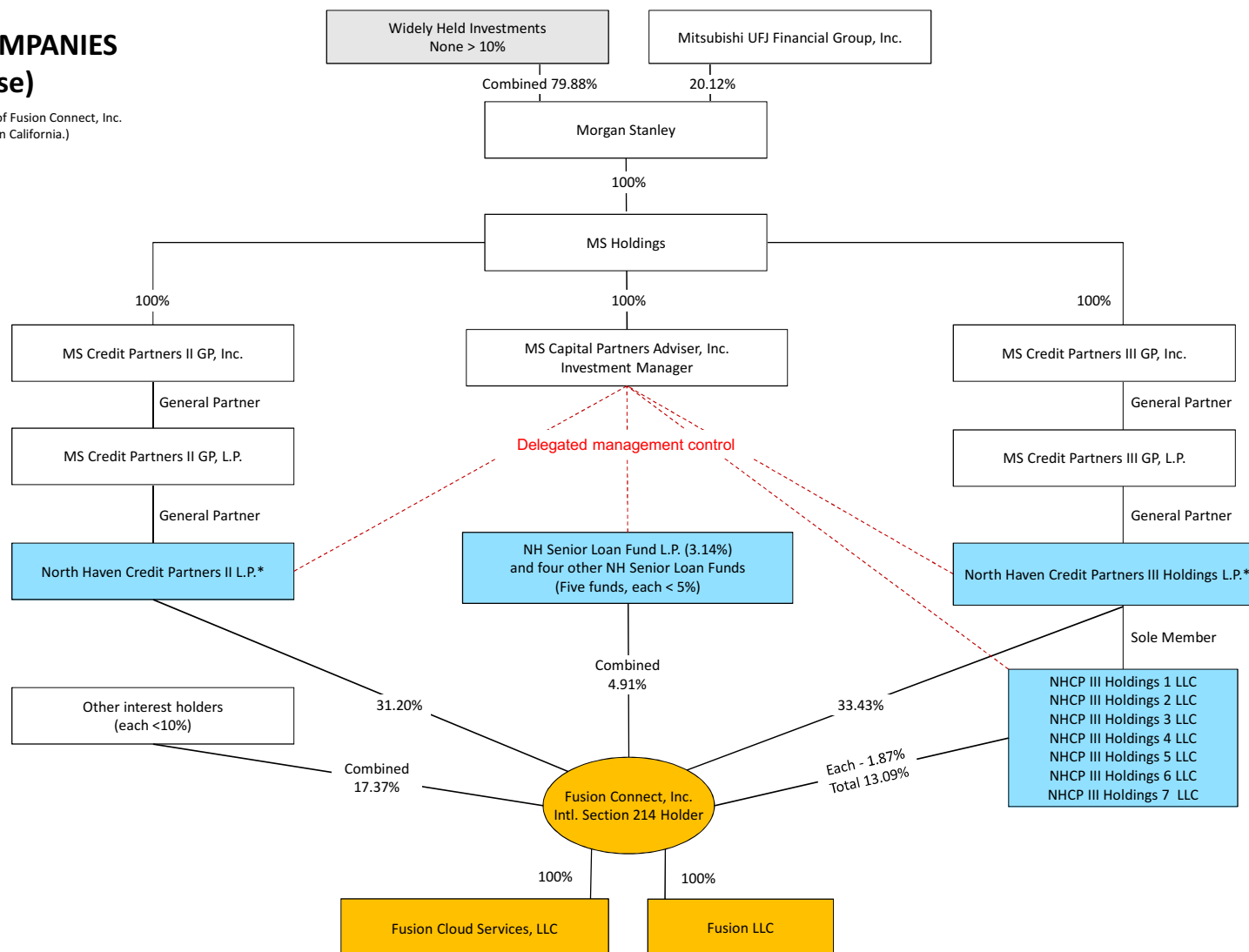
\*\* Under the control or management of CBAM CLO Management, LLC or CBAM Partners, LLC.

\*\*\* Under the control or management of Invesco Limited.

\*\*\*\* Consisting of North Haven Credit Partners II L.P., NH Senior Loan Fund L.P., and Morgan Stanley Senior Funding, Inc.

# THE FUSION COMPANIES (Post-Close)

(The chart only includes subsidiaries of Fusion Connect, Inc. that are licensed providers in California.)



\* No person or entity has a large enough interest in the limited partnership, alone or in combination with interests in other North Haven Funds, that constitutes a 10% or greater indirect interest in the Fusion Licensees.



**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT H**

**Transaction Documentation**

*[To be submitted separately, with an accompanying Motion for Leave to File Under Seal]*

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT I**

**Fusion Connect Financial Information**

*[Will be submitted separately with a motion for leave to file under seal]*

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT J**

**North Haven Entities' Financial Responsibility Showing**

*[Will be submitted separately with a motion for leave to file under seal]*

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT K**

**Regulatory and Financial History Certification  
for the Fusion Companies**

*[This exhibit will be subsequently filed as an amendment.]*

**Joint Application of Fusion Connect, Inc., and the North Haven Entities for Authority for  
the North Haven Entities to Acquire Indirect Control of Fusion LLC (U-6067-C) and  
Fusion Cloud Services, LLC (U-6446-C)**

**EXHIBIT L**

**Regulatory and Financial History Certification  
for the North Haven Entities**

*[This exhibit will be subsequently filed as an amendment.]*